

**IN THE COURT OF JUDICIAL MAGISTRATE, 2nd COURT, SERAMPORE,
HOOGHLY.**

M. C No. 34 of 2020
CNR- WBHGO60003152020
TR. no.-110/20
J.O. Code: -WB01414

Order dated 16.06.2025:

Today is fixed for passing order.

Petitioner is present by filing hazira.

O.P is present by filing hazira in person.

Heard the Ld. Advocate for the petitioner on earlier date.

Heard the O.P in person on earlier date.

The record is now taken up for passing order.

The petitioner's case in nutshell is that she is the wife of the Opposite Party (O.P) namely Suklayan Banga and she got married with O.P on 01.08.2008 as per Hindu rites and customs. At the time of her marriage, the father of the petitioner gave Rs. 50,000/- cash, 10 bhorie of gold ornaments and other household furniture and articles to the O.P as per his demand. After marriage on 02.08.2008, the petitioner moved to her matrimonial house and started to lead her conjugal life. Out of their wedlock, the petitioner gave birth to a female baby on 03.11.2011 namely, Aheli Banga who was 8 years old at the time of filing of the instant case. Since, after their marriage, the petitioner was subjected to mental and physical torture in various ways. Petitioner contends that as she gave birth to a girl child, the intensity of torture inflicted upon her was intensified. It is stated that inspite of the fact that the O.P is a well-educated person, he could not tolerate his daughter. On raising protest by the petitioner, the O.P further assaults the petitioner and abuses her parents in filthy language. Lastly, the petitioner in spite of being unwell was assaulted and finally driven out from her matrimonial home along with her minor daughter and further all her stridhan articles were retained by the O.P. The petitioner was thus compelled to reside at her parental home since 01.04.2019. The very same year in 2019, the petitioner being aggrieved lodged a written complaint at Jangipur P.S in respect of the O.P. The O.P refused and neglected to provide any maintenance to the petitioner and her daughter.

The petitioner stated that she has no independent source of income to maintain herself. On the other hand, O.P earns Rs. 30,000/- per month being engaged in computer software and he also derives additional income from family business in Nadia Saree Haat. Petitioner therefore, prays for interim maintenance @ Rs.10,000/- per month for herself and her minor daughter.

The opposite party was permitted to appear in person in the instant case vide Order Dt. 18.10.2024.

It further appears that the written objection in respect of the O.P was already filed on 27.06.2023.

Opposite party denied all the material allegation as alleged by the petitioner.

The opposite party admitted the marriage with the petitioner and birth of their daughter. The O.P

denied the allegation of torture upon the petitioner and rather he states that he engaged his wife in creative activities and extracurricular activities with a view to inspire her. He also took positive steps for proper upbringing of his daughter. O.P averred that the unauthorized interference on part of the parents of the petitioner gave rise to a serious turmoil between the petitioner and the O.P. The situation was aggravated to the extent that he was given an ultimatum to choose between his parents and his wife and daughter. It was when the O.P flatly refused to leave his old and ailing parents that the petitioner left her matrimonial home on her own free will along with their daughter with all her stridhan articles.

Relating to income, the O.P has stated that he earns Rs. 7,000/- per month by repairing mobile phones. The O.P averred that the petitioner is an earning individual by running a school named 'Barnamala' and further she is also engaged in manufacturing garments earning total Rs. 15,000/- per month.

Thus, the O.P prays for rejection of the interim maintenance petition filed by the petitioner.

It is true that if it is discovered at the end of trial that the wife is unreasonably reluctant to resume cohabitation with the opposite party her maintenance endeavor would be thrown out but this possibility, in opinion of this Court, cannot absolve the husband from discharging his legal obligation to maintain his wife. In the facts and circumstances of the present case, an interim order of maintenance will not work to the prejudice of the husband even if the principal application

is ultimately found to be worthy of rejection and this Court says this because the amount that would be paid as interim maintenance would have had to be spent by the husband in any event if his wife was residing with him. At this stage, without taking evidence on that behalf, it would not be possible to determine whether the wife had left the matrimonial home on her own volition or not.

To get the order of maintenance the petitioner required to prove that she is legally wedded wife of the O.P, the O.P. has refused to maintain her, and the petitioner is unable to maintain herself.

There is nothing on record which suggests that the petitioner is an earning individual. Further, no document has been produced before this Court which suggests that O.P pays any amount towards upkeep and maintenance of the petitioner and her daughter. The O.P has stated in his written objection that his net monthly income is Rs.7000/-, while in his affidavit of asset and liabilities Dt. 07.04.2025, he has stated his income to be NIL being unemployed. The husband is an able-bodied man. (He does not aver to contrary). He had married voluntarily and had taken upon himself the pious, social and legal obligation to maintain the petitioner. These acts per force make it necessary for this court to order him to pay an amount of interim maintenance towards his wife.

Considering the disclosure of assets and liabilities as made by the parties and keeping in mind the ever-increasing rise in the cost-of-living index, the needs of the petitioner, the probable expenditures to be incurred, and the basic luxuries commensurate to age, this Court is of the view that the O.P/husband should be directed to pay a sum of Rs. 4500/- per month to the petitioner for herself and her daughter. The instant application thus succeeds.

The issue relating to the date of effect of the order of interim maintenance was discussed by the

Hon'ble Supreme Court in the judgment delivered in Rajnesh Vs. Neha (2021) 2 SCC 324 (in paragraph 113) wherein it has been observed in the following words:

“113. It has therefore become necessary to issue directions to bring about uniformity and consistency in the orders passed by all courts, by directing that maintenance be awarded from the date on which the application was made before the Court concerned. The right to claim maintenance must date back to the date of filing of the application, since the period during which the maintenance proceedings remained pending is not within the control of the applicant.” Considering such specific direction by the Hon'ble Supreme Court, the order of interim maintenance is awarded from the date of filing of the instant application i.e. on 04.02.2020.

ORDERED

That the petition filed by the petitioner praying for interim maintenance for herself and her minor daughter is hereby considered and allowed on contest. The opposite party of this case is hereby directed to pay monthly interim maintenance in the tune of Rs.4,500/- (Rupees Four Thousand Five Hundred Only) per month for the petitioner and her minor daughter until disposal of this case and within 7th day of each succeeding English calendar month, in default of which, the petitioner would be at liberty to prefer execution as per law.

The instant order of interim maintenance would be operative on and from the date of filing of the interim maintenance application i.e. 04.02.2020 and would be remained in force until disposal of this case or until further order whichever comes earlier.

The opposite party is further directed to pay the outstanding arrear quantified for the period beginning on and from 20.05.2022 to the date of this final interim order within nine months from the date of this order simultaneously with the payment of regular monthly interim maintenance, in default, the petitioner would be at liberty to prefer execution as per law after expiry of the stipulated period.

Let a copy of this order be made available to the petitioner free of cost on prayer.

Fix **20.09.2025** for evidence.

Typed and corrected by me

**Sd/-(Ankita Gupta)
Judicial Magistrate, 2nd Court
Serampore**

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Judicial Magistrate, 2nd Court
Serampore**